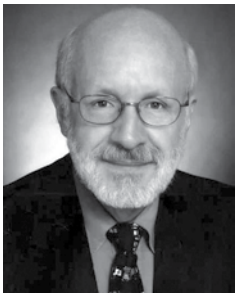
Surveys and Priorities

By John Arango[1]

Legal needs surveys have had a significant impact on resource development. They have had less impact on the issues addressed by legal aid programs. There are at least two reasons for this situation:

1. There are better ways than surveys to identify effective delivery methods.
2. Most programs use values, rather than facts, to determine work to be done. Facts can tell us which needs occur most often, but they can't tell us which needs have the greatest impact on eligible client's lives. For example, a survey shows that most low income children experience hunger at least once a week, and that a substantial proportion of low income elders have been targets of consumer fraud. Assume that resources are limited, so both situations cannot be fully addressed. How do staff and board members decide what will be done? They enter into a discussion of which need is "most important." As soon as the words "most important" enter the dialogue, you are dealing in values, not facts.[2]



My first exposure to the use of surveys was in the early days of the Legal Services Corporation (LSC). The LSC had recently hired the former executive director of the Legal Aid of Orange County as its Director of Training. He had used surveys to set his program's agenda and strongly believed that a survey of a randomly-selected representative sample of eligible clients was the only legitimate way to determine client needs.

Regulation 1620 had not yet been written, so there was considerable discussion of ways that programs could control caseloads. I was a proponent of a method that had been developed shortly before the LSC Act was signed. It was tested in several programs then codified in a manual titled "Too Many Clients, Too Little Time." This method called for a large group of clients and all staff and board members to assemble in a two- or three-day retreat. Participants first identified substantive issues and delivery methods in a large group session; they narrowed the range of issues and methods in small groups; and finally set "priorities" by a vote of all present. The vote was preceded by a vigorous debate in which everyone participated, followed by a straw vote, and then another round of debate that took the results of the straw vote into account. The LSC Training Director considered this method to be fatally flawed because it was impossible to assemble a representative sample of clients for the retreat.

The dispute continued into the discussion of 1620, and, after consideration of other methods (including having community action agencies set LSC recipients' priorities), was sidestepped by allowing both methods — surveys and retreats — to be used to identify needs.

The decisive confrontation occurred in Selma. Legal Services of Alabama received its entire first year LSC grant—around $10 million—before any staff other than the executive director had been hired. A group of experienced legal aid directors and consultants was retained to advise the new director, who had no legal aid experience. The advisers suggested using both surveys and retreats to identify needs. The Mobile area, where local staff were first hired, used a retreat. But staffing of the Selma office was slower, so there was time to conduct a survey. An experienced polling firm was hired. Canvassers were dispatched down country roads to interview adults in every fifth house in the very rural counties surrounding Selma. The survey — probably the best local survey ever — showed that more than 80% of households had difficulty paying utility bills.

A one-day retreat was then held in Selma. Eligible clients from all the counties were assembled, along with the small Selma staff and the local statewide board

member. When planning the retreat, the question was: at what point should the group be shown the survey results? The decision was to have the group identify issues and delivery methods, and debate and vote priorities, before seeing the survey results.

The retreat identified eliminating the last vestiges of employment discrimination in the schools and county government as the top priority. Dealing with high utility bills was ranked in the lower middle.

We then revealed the survey results and asked for comments. An older gentleman raised his hand and said: "If we had decent paying jobs, we could pay our utility bills."

This and other similar experiences led a group assembled by the LSC (and chaired by Victor Geminiani) to evaluate the effectiveness of priority-setting procedures to conclude "face to face dialogue between the staff and all significant segments of the client population is an essential element of [the needs] appraisal and identification of alternative approaches to address the results of the appraisal."[3]

This does not mean that surveys are useless. Legal Services of Alabama created a utilities group in its central office that successfully challenged many utility practices. There is obviously merit in directly addressing an issue that affects 80% of eligible households. What a survey is unlikely to do is reveal the underlying causes of a widespread problem.

The best national survey was conducted by the American Bar Association (ABA) in the mid-1990s. The study of a representative sample of eligible clients showed that 47% of low income households had one or more legal needs, with the average household having 2.3 needs. "Family and domestic" ranked first, with 20% of households reporting long-standing legal needs. "Housing and real property" and "personal finances and consumer" tied for second, affecting 16% of all households.

The next long standing need (12% of households) was "community and regional," which clients identified as the category where their unaided efforts produced the least satisfactory results (71% of respondents were dissatisfied with the outcome of their efforts).

"Community and regional" included such needs as environmental hazards that pose a threat to health or safety or reduce property values; inadequate municipal services in low income neighborhoods; and "ineffective police protection." It's interesting that this category, which received very little attention at the time, revealed issues that are now of paramount importance.

The other ABA finding that received little attention was that, when eligible clients took a legal issue into the legal/judicial system, 68% were assisted by an attorney—but 75% of those attorneys were in private practice. This finding was later elucidated by a study that John Tull did in Maryland. A survey of attorneys in private practice showed that more than half had provided *pro bono* assistance in the past year. At the time, this seemed high, so John called attorneys in all parts of the state to verify the finding. Most attorneys interviewed reported that they typically acquired a *pro bono* case when their pastor took them aside and asked them to help a parishioner. These were offers that could not be refused.

It took several years before legal aid staffs and the private bar recognized that, by seeing each other as a resource rather than a competitor, and by encouraging, expanding and supporting the private bar effort, more poor people could get the effective legal assistance they needed.

What all this points to is that surveys—or, more broadly, deliberately collected facts—can tell us a great deal about ways to effectively deliver services, even if the substantive issues we address are determined more by values rather than by facts.

Two examples: California Rural Legal Assistance (CRLA) has for many years relied on university-based researchers to keep the program up-to-date on changes in the farm-worker community. Staff could see that more and more of their clients were from indigenous communities in Mexico. Researchers confirmed that their observations were correct—most recent migrants in California came as groups from indigenous communities; did not speak Spanish; and brought their community leaders with them. This was vitally important information that enabled CRLA to continue to effectively serve the migrant community.

The second example is from an on-going experiment in the Legal Aid Society of Cleveland and the Montana Legal Services Association, where mapping is used to identify pockets of clients with specific needs—for, example, veterans.

These examples point to a more rational way to set priorities: first, identify a particular group with an "important" or an "urgent" legal need (value decisions); use mapping, surveys and focus groups, and expert advice to better understand its situation (not just its legal needs); then, in dialog with group leaders, set the desired outcomes (practical, achievable results that will make a difference in group members' lives); and finally, pick the delivery methods that are highly likely to produce the desired outcomes.

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Neither values alone, nor facts alone, will produce an effective program. A combination of values and facts, always filtered through dialog with clients, is the key to a better life for poor people.

1 Until closing down his consulting practice last fall, John Arango provided assistance to legal aid managers for more than forty years. He was also a member of the MIE team that trained new Executive Directors for more than twenty years. He is now consolidating his observations and experiences in a series of articles for the MIE *Journal*. John may be reached at *jarango@nmia.com*.

2 While program staff and board members routinely refer to priority-setting procedures as determining the "most important" client needs, this phrase does not appear in Regulation 1620. The closest phrase in the Regulation appears in 1620(c)7, which asks that recipients consider "the relative importance of particular legal problems to the individual clients of the recipient" which sounds more like a way to limit the issues that a program will address for an individual client with multiple issues than a directive to weigh needs against each other when determining program activities.

3 LSC, Priority Setting Standards, September 22, 1980, Standard V. While much of the language of the Standards document was incorporated into future revisions of the Regulation, Standard V's "dialogue" requirement has never made it into the Regulation itself.